

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Damorius D. Gaines,)	
a/k/a Damorius Dontavius Gaines,)	C/A No. 4:18-1838-MBS
)	
Petitioner,)	
)	
vs.)	ORDER AND OPINION
)	
Sheriff Chad McBride,)	
)	
Respondent.)	
_____)	

Petitioner Damorius D. Gaines is a pretrial detainee who currently is housed at the Anderson County Detention Center (ACDC). On July 5, 2018, Petitioner, proceeding pro se and in forma pauperis, filed a petition for writ of habeas corpus under 28 U.S.C. § 2241, alleging that he has been detained without trial for over sixteen months based on false statements. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Thomas E. Rogers, III for pretrial handling.

The Magistrate Judge reviewed the petition in accordance with Rule 4 of Rules Governing Section 2254 Cases, which rules also apply to § 2241 cases. On July 10, 2018, the Magistrate Judge issued a Report and Recommendation in which he noted that federal interference in Petitioner's criminal action is barred by Younger v. Harris, 401 U.S. 37 (1971). The Magistrate Judge observed that Petitioner may raise his claims in state court. Accordingly, the Magistrate Judge recommended that the § 2241 petition be summarily dismissed, without prejudice and without requiring Respondent to file a return. Petitioner filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court.

Mathews v. Weber, 423 U.S. 261, 270 (1976). This court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. Id. In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record and concurs in the recommendation of the Magistrate Judge. Petitioner’s § 2241 petition (ECF No. 1) is summarily dismissed, without prejudice and without requiring Respondent to file a return.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina

August 2, 2018